CHAPTER 1
INTRODUCTION AND PURPOSE AND NEED FOR AGENCY ACTION

1.0 INTRODUCTION AND PURPOSE AND NEED FOR AGENCY ACTION

Chapter 1 of this environmental impact statement (EIS) gives an overview of the activities at the Western New York Nuclear Service Center (WNYNSC) and a brief history of events leading to the development of the document. It includes the purpose and need for agency action, the scope of the EIS and decisions to be made, the relationship of this EIS to other National Environmental Policy Act (NEPA) documentation, and the scoping process used to obtain public input on the issues addressed in this EIS. The chapter concludes with a discussion of the organization of the document.

1.1 Overview

WNYNSC is a 1,352-hectare (3,340-acre) site located 48 kilometers (30 miles) south of Buffalo, New York, and owned by New York State Energy Research and Development Authority (NYSERDA). In 1982, under terms of the Cooperative Agreement between the U.S. Department of Energy (DOE) and NYSERDA, DOE assumed control, but not ownership, of the 66.4-hectare (164-acre) Project Premises portion of the site in order to conduct the West Valley Demonstration Project (WVDP), as required by the 1980 WVDP Act (DOE and NYSERDA 1981). In 1990, DOE and NYSERDA entered into an agreement to prepare a joint EIS that addressed both WVDP completion and closure of the WNYNSC. A *Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center* (also called the *Cleanup and Closure Draft EIS*) (DOE 1996a) was issued for public comment in 1996, but a Preferred Alternative was not identified, and a Final EIS was not prepared.

In March 2003, DOE and NYSERDA issued Notices in the *Federal Register* and the New York State Environmental Notice Bulletin, respectively, of their intent to prepare this *Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center (Decommissioning and/or Long-Term Stewardship EIS)*. This Draft EIS revises the 1996 *Cleanup and Closure Draft EIS* and analyzes site-wide alternatives for management or decommissioning of facilities and property at WNYNSC. DOE and NYSERDA are joint lead agencies for the preparation of this EIS; and NRC, the U.S. Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (NYSDEC) are cooperating agencies. New York State Department of Health (NYSDOH) and NYSDEC are involved agencies as provided for by the State Environmental Quality Review Act (SEQR).

WNYNSC was established in 1961 as the site of a nuclear center that consists of commercial spent nuclear fuel reprocessing and waste disposal facilities. Nuclear Fuel Services, a private company, built and operated the fuel reprocessing plant and the burial grounds, processing 640 metric tons (705 tons) of spent fuel at West Valley from 1966 to 1972 under an Atomic Energy Commission license. These spent fuel reprocessing operations resulted in the generation of 2,498,000 liters (660,000 gallons) of high-level radioactive waste which was stored in two underground storage tanks. In 1976, Nuclear Fuel Services withdrew from the reprocessing business and returned control of the facilities to the site owner, NYSERDA. However, Nuclear Fuel Services remained on site until 1981 to continue plant cleanup activities. The reprocessing operations and subsequent plant cleanup generated approximately 5,380 cubic meters (190,000 cubic feet) of radioactive waste that was buried in a 2.83-hectare (7-acre) burial area termed the NRC-licensed disposal area (NDA). WVDP disposed of an additional 5,663 cubic meters (200,000 cubic feet) of radioactive waste between 1982 and 1986 in the NDA. Radioactive waste was accepted for burial at a second burial area adjacent to the NDA, the 6.1-hectare (15-acre) State-licensed disposal area (SDA), from 1963 until 1975. The SDA received waste

from offsite locations, as well as waste generated at WNYNSC by nuclear fuel reprocessing operations. The total volume of radioactive waste disposed of in the SDA is estimated to be approximately 68,000 cubic meters (2.4 million cubic feet).

In 1976, when Nuclear Fuel Services exercised its contractual right to leave the site and transfer ownership and responsibility for the waste and facility to the State of New York, the State initiated discussions with the U.S. Government concerning management of the waste and facilities.

In 1980, Congress passed the WVDP Act, which directed DOE to take the lead role in solidifying the liquid high-level radioactive waste remaining in underground tanks and decontaminating and decommissioning the facilities at the West Valley Site used in solidifying the waste. In particular, the Act called for DOE to:

1. Solidify, in a form suitable for transportation and disposal, the high-level radioactive waste at WNYNSC.

2. Develop containers suitable for the permanent disposal of the high-level radioactive waste solidified at WNYNSC.

3. Transport in accordance with applicable provisions of law, as soon as feasible, the waste solidified at WNYNSC to an appropriate Federal repository for permanent disposal.

4. Dispose of low-level radioactive waste and transuranic waste produced by the solidification of the high-level radioactive waste under the project in accordance with applicable licensing requirements.

5. Decontaminate and decommission the tanks and other facilities in which the solidified high-level radioactive waste was stored, the facilities used in the solidification of the waste, and any material and hardware used in connection with the project in accordance with such requirements as NRC may prescribe.

To take these actions, NYSERDA granted DOE exclusive use and possession of the Project Premises and project facilities solely for the purpose of carrying out the project. The Project Premises consists of the developed areas on WNYNSC, with the exception of the SDA.

DOE has made substantial progress on completing its WVDP Act requirements. By August 2002, DOE had completed requirements 1 and 2 above by solidifying the high-level radioactive waste and placing it in 275 canisters suitable for permanent disposal. Because a Federal repository is not available, the 275 canisters are stored in a heavily shielded cell in the former reprocessing plant, pending repository availability. Completion of WVDP involves completion of requirements 3 through 5 listed above.

While DOE has been discharging its responsibilities under the WVDP Act, NYSERDA has continued to monitor and maintain the SDA and the balance of the retained premises (that portion of WNYNSC not provided to DOE for conduct of WVDP). NRC has continued to fulfill its WVDP Act responsibilities through informal review and consultation with DOE and by conducting monitoring activities.

While most site activities have focused on the management of radioactive waste and contamination, there are also hazardous chemicals and hazardous wastes on site that are being managed consistent with EPA and New York State regulations, including those issued to implement the Resource Conservation and Recovery Act (RCRA), Subtitle C – Hazardous Waste Management Program. These regulations are referred to herein as either "RCRA regulations" when referring to EPA's regulations (40 *Code of Federal Regulations* [CFR] Parts 260-279) or "Part 373/RCRA regulations" when referring to New York State's regulations (6 New York Codes of Rules and Regulations [NYCRR] 370-374 and 376).

RCRA Background

In 1984, DOE notified EPA of hazardous waste activities at WVDP and identified WVDP as a generator of hazardous waste. This preceded the 1987 DOE interpretive rule that clarified that the nonradioactive chemically hazardous component of mixed low-level radioactive waste (waste containing both radiological and RCRA hazardous components) would be subject to regulation under RCRA. In June 1990, New York State regulations governing mixed low-level radioactive waste became effective and a RCRA Part A Permit Application for WVDP was filed with NYSDEC for the storage and treatment of hazardous waste and mixed low-level radioactive waste generated on site. Similarly, in 1990, NYSERDA submitted a RCRA Part A Permit Application to NYSDEC to store and treat hazardous and mixed low-level radioactive waste at the SDA on its portion of WNYNSC.

In March 1992, DOE and NYSERDA entered into a RCRA 3008(h) Administrative Order on Consent with NYSDEC and EPA. The Consent Order required DOE and NYSERDA to conduct RCRA Facility Investigations (RFIs) for solid waste management units (SWMUs) to determine if there had been a release or if there was a potential for release of RCRA-regulated constituents. The final RFI reports were submitted in 1997, completing the investigation activities required by the Consent Order. NYSDEC and EPA approved the RFI reports for SWMUs located within the WVDP premises; no corrective actions were required other than continued groundwater monitoring as proposed in the RFI reports. Also, NYSERDA proposed and implemented additional infiltration control measures for the SDA, which were performed as an interim measure under the Consent Order. The SDA RFI also proposed the continued operation and maintenance of installed interim corrective measures. In response to a January 2004 NYSDEC request, a report entitled *West Valley Demonstration Project Solid Waste Management Unit Assessment and Current Conditions Report* was submitted to NYSDEC. This report summarized the historic activities at individual SWMUs and provided current environmental monitoring data and information on site activities performed since the completion of the RFI reports. As a result of its review, NYSDEC determined that corrective measures studies (CMSs) pursuant to the Consent Order were required for six WVDP SWMUs. NYSERDA is preparing a CMS for the SDA.

In August 1996, to comply with the Federal Facilities Compliance Act, DOE entered into a second Administrative Consent Order with NYSDEC to prepare a Site Treatment Plan for treating mixed low-level radioactive waste inventories to meet land disposal restrictions and to update the plan annually to account for development of treatment technologies, capacities, and changes in mixed low-level radioactive waste inventories. The initial plan was submitted in 1997, and updates have been submitted each year.

WVDP RCRA Part A Permit Application is revised as changes to the site's interim status waste management operations occur. An update to the WVDP RCRA Part A Permit Application was submitted to NYSDEC in March 2001. In November 2001, NYSDEC responded that the RCRA Part A Permit Application modifications met the requirements for changes to interim status treatment and storage operations at WVDP. In February 2008, the WVDP RCRA Part A Permit Application was further revised and submitted to NYSDEC.

In July 2003, NYSDEC made an official request for the submittal of a Part 373/RCRA Permit Application for WVDP. A Part 373/RCRA Permit Application was transmitted to NYSDEC in December 2004. In February 2005, NYSDEC indicated that they were going to begin their technical review. However, NYSDEC's review of the 2005 Preliminary Draft EIS and the ongoing work at WNYNSC has taken precedence. A revised Part 373/RCRA Permit Application will need to be submitted to update the facility information and changes.

Developing a proposed method for completing WVDP and managing the decommissioning and/or long-term stewardship of WNYNSC requires consideration of both radioactive and nonradioactive hazardous materials and constituents and the regulations that govern them. DOE and NYSERDA are integrating these

considerations in their decisionmaking process as applicable and are coordinating their efforts with the relevant regulatory authorities: NRC, EPA, and NYSDEC.

1.2 History of the Development of the Environmental Impact Statement

In a 1987 Stipulation of Compromise settling a lawsuit filed by local citizens, DOE agreed that by the end of calendar year 1988, it would begin a closure EIS to evaluate disposal of Class A and Class B/C waste generated by DOE activities at WVDP and to evaluate erosion impacts. On December 30, 1988, DOE published a Notice of Intent (NOI) in the *Federal Register* to prepare an EIS for completion of WVDP. A similar notice was published by NYSERDA in the *State Environmental Notice Bulletin* on January 11, 1989. After publication of these notices, public comments on the scope and content of the EIS were received in letters and during public scoping meetings. Additional characterization information to support preparation of the Draft EIS was collected and a Draft EIS was prepared. The *Cleanup and Closure Draft EIS* (DOE/EIS-0226-D) (DOE 1996a) was issued in March 1996, without identifying a Preferred Alternative.

A total of 113 comment letters were received on the 1996 Draft EIS. Some expressed a preference for a particular alternative. Other commentors felt that selection of an alternative that complied with regulations was not possible because NRC had not prescribed requirements for decontamination and decommissioning as required by the WVDP Act. Other comments attempted to apply NRC 10 CFR Part 61 requirements and drew conclusions about the acceptability of various alternatives. Still other commentors called for more characterization of the site (specifically structural geology and seismic risk) and waste. Commentors also called for erosion analysis methods that addressed gully growth. Some commentors questioned aspects of specific closure designs, including the reasonableness of assumptions and the appropriateness of specific design features.

DOE and NYSERDA acknowledged the need for additional characterization information and analytical methods to support a Final EIS and proceeded to work on the collection of additional information on structural geology, local fractures, and seismicity. Updated methods for analyzing erosion were developed and refined. The assumptions and design features for specific alternatives were reviewed and revised. Discussions took place between DOE and NYSERDA on how to select a Preferred Alternative and what a Preferred Alternative might involve.

In 1999 and 2000, DOE issued Records of Decision (RODs) based on the *Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (Waste Management Programmatic EIS)* (DOE 1997a) that affected WVDP. The ROD for high-level radioactive waste issued in August 1999 called for storage of high-level radioactive waste at the site of generation until a disposal site was available. The February 2000 ROD for low-level radioactive waste and mixed low-level waste established both the Hanford Site and the Nevada Test Site as regional DOE disposal sites for low-level radioactive waste and mixed low-level radioactive waste, although the ROD did not preclude the use of commercial disposal facilities, as appropriate.

On March 26, 2001, DOE and NYSERDA issued an NOI in the *Federal Register* announcing their plan to revise the strategy for completing the 1996 *Cleanup and Closure Draft EIS* and to prepare a separate EIS on decontamination of WVDP facilities and related waste management activities. The newly announced EIS would permit DOE to perform additional facility decontamination and ship stored legacy waste and newly generated waste off site for disposal, since DOE now had access to DOE disposal facilities such as the Nevada Test Site. Completing the *West Valley Demonstration Project Waste Management Environmental Impact Statement (Waste Management EIS)* also ensured that DOE could make further progress toward completing WVDP Act requirements for facility decontamination and waste disposal while the *Cleanup and Closure Draft EIS* process continued.

The March 26, 2001, NOI also announced that DOE would soon initiate a new EIS jointly with NYSERDA for decommissioning and/or long-term stewardship of WVDP and WNYNSC. On November 6, 2001, DOE independently issued an Advance NOI to prepare an EIS for decommissioning and/or long-term stewardship at the WVDP and WNYNSC.

After issuance of the March 26 and November 6, 2001, Notices and consideration of public scoping comments received, DOE decided to focus the *Waste Management EIS* exclusively on waste management actions. DOE also determined that the *Waste Management EIS* would be a new EIS, and that the *Decommissioning and/or Long-Term Stewardship EIS* would instead be considered the revised draft of the 1996 *Cleanup and Closure Draft EIS*. DOE issued DOE/EIS-0337, the *Waste Management EIS* (DOE 2003e), in draft form for public comment in May 2003, and in final form in January 2004. A ROD was issued on June 16, 2005.

While DOE and NYSERDA were developing additional information and analyses to support preparation of a revised Draft EIS, NRC initiated work that culminated in the 2002 issuance of an NRC policy statement announcing the WVDP decommissioning criteria. On February 1, 2002, the NRC published in the *Federal Register* (67 FR 5003), "Decommissioning Criteria for the WVDP at the West Valley Site; Final Policy Statement." NRC decided that it would apply its License Termination Rule (10 CFR Part 20, Subpart E) as the decommissioning goal for the entire NRC-licensed site. In addition, the NRC Final Policy statement also provided specific criteria for classification of the incidental wastes that might be present after decontamination activities.

The License Termination Rule does not apply a single public dose criterion. Rather, it provides for a range of criteria. For unrestricted release, the License Termination Rule (10 CFR Part 20 Subpart E) specifies a dose criterion of 25 millirem per year total effective dose equivalent (TEDE) for the compliance receptor, plus as low as reasonably achievable (ALARA) considerations. For restricted release, the License Termination Rule specifies an individual dose criterion of 25 millirem per year TEDE plus ALARA considerations using legally enforceable institutional controls established after a public participation process. Even if institutional controls fail, individual doses should not exceed 100 millirem per year TEDE. If it is demonstrated that the 100 millirem per year TEDE criterion is technically not achievable or prohibitively expensive in the event of failure of institutional controls, the individual dose criterion in the event of failure of institutional controls may be as high as 500 millirem per year TEDE. However, in circumstances where restricted release is required, if the 100 millirem per year TEDE criterion is exceeded, and/or the use of alternate criteria has been determined, the area would be rechecked by a responsible government entity no less frequently than every 5 years. Finally, the License Termination Rule permits alternative individual dose criteria of up to 100 millirem per year TEDE plus ALARA considerations for restricted release, with institutional controls established after a public participation process.

In addition to specifying the License Termination Rule as described in the preceding paragraph, the NRC Final Policy Statement also provides certain flexibility to consider other alternatives to the License Termination Rule, if it is demonstrated that the License Termination Rule cannot be met. The Final Policy Statement indicates that the applicable goal for the entire NRC-licensed site is compliance with the License Termination Rule, but recognizes that health and safety and cost-benefit considerations may justify the use of an alternative that does not fully comply with License Termination Rule criteria. However, to support an exemption to the License Termination Rule criteria, it must be rigorously demonstrated that protection of the public health and safety for future generations could be reasonably assured through more robust engineered barriers and/or increased long-term monitoring and maintenance. The Final Policy Statement indicates that NRC is prepared to provide flexibility to assure cleanup of the NRC-licensed site to the maximum extent technically and economically feasible. Any exemptions or alternate criteria authorized for DOE to meet the provisions of the WVDP Act will also apply to NYSERDA at the time of site license termination, if license termination is possible.

On March 13, 2003, DOE and NYSERDA published Notices in the *Federal Register* and New York State Environmental Notice Bulletin announcing that they would jointly prepare an *Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center*, which would revise the 1996 *Cleanup and Closure Draft EIS*. This EIS builds upon a clearer understanding of the major regulatory requirements, including NRC WVDP decommissioning criteria and Part 373/RCRA regulations as they apply to units on site. It utilizes updated long-term performance assessment models for groundwater and erosion releases and analyzes closure designs that have waste isolation barriers. It analyzes short-term and long-term impacts, local impacts, and impacts associated with transportation. The analysis is intended to provide the decisionmakers and the public with an updated understanding of the environmental impacts of each alternative.

Following the NOI and scoping meetings of early 2003, DOE, with input from NYSERDA and the cooperating agencies, refined the definition of five alternatives and prepared a preliminary internal Draft EIS in September 2005 that analyzed the environmental impacts of the five alternatives. This preliminary Draft EIS did not present a Preferred Alternative and did not address the issue of who is responsible for what portions of the site. This preliminary Draft EIS was reviewed by the co-lead and cooperating agencies, and their comments revealed different expectations about the purpose and content of the EIS. To resolve the differences about alternatives to be analyzed and the type of analysis, and to help identify a Preferred Alternative, DOE established a core team comprised of the co-lead and cooperating agencies to discuss and, where practical, resolve the issues raised by the review of the September 2005 preliminary Draft EIS. This revised Draft EIS reflects the results of discussions with the core team regarding alternatives to be analyzed, the nature of the analysis, and the nature of the Preferred Alternative.

Figure 1–1 presents a summary of the activities discussed earlier that are part of the history of the preparation of this revised Draft EIS.

1.3 Purpose and Need for Agency Action

The WVDP Act requires DOE to decontaminate and decommission the waste storage tanks and facilities used in the solidification of high-level radioactive waste, and any material and hardware used in connection with the WVDP, in accordance with such requirements as NRC may prescribe. As discussed earlier, NRC has prescribed its License Termination Rule as the decommissioning criteria for WVDP. Therefore, DOE needs to determine the manner that facilities, materials, and hardware for which the Department is responsible are managed or decommissioned in accordance with applicable Federal and State requirements, including Part 373/RCRA regulations. To this end, DOE needs to determine what, if any, material or structures for which it is responsible would remain on site, and what, if any, institutional controls, engineered barriers, or stewardship provisions would be needed. In order to evaluate alternatives by which DOE would complete its responsibilities under the WVDP Act, this EIS is being prepared in accordance with Council on Environmental Quality and DOE implementing regulations (40 CFR Parts 1500 through 1508 and 10 CFR Part 1021).

The manner in which facilities and property for which NYSERDA is responsible, including the SDA, will be managed or decommissioned, in accordance with applicable Federal and State requirements, needs to be determined. To this end, NYSERDA needs to determine what, if any, material or structures for which it is responsible would remain on site and what, if any, institutional controls, engineered barriers, or stewardship provisions would be needed. This EIS was prepared to meet NYSERDA compliance requirements of SEQR as part of its decisionmaking process for management of the WNYNSC. As the lead New York State agency for preparing the SEQR documents for West Valley, NYSERDA will submit Public Notices and issue its Findings Statement under SEQR in parallel with DOE's publication of Notices and its ROD under NEPA.

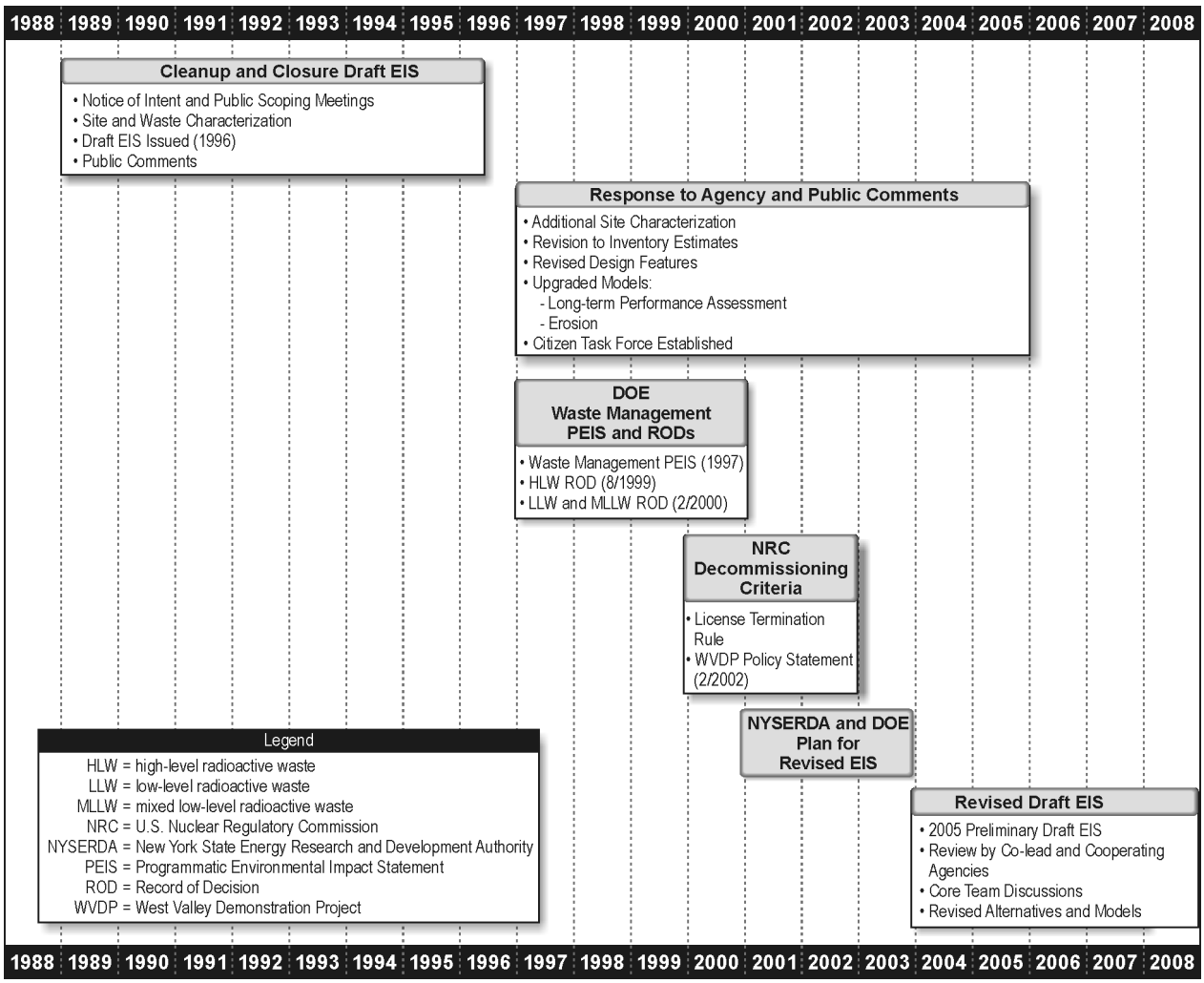

Figure 1–1 West Valley Decommissioning Environmental Impact Statement History Timeline

Cooperating and Involved Agencies

NEPA and SEQR both contain provisions that encourage participation by other Federal and state entities to reduce duplication between NEPA and state and local requirements. Cooperating agencies under NEPA are agencies other than the lead agency that have jurisdiction by law or special expertise with respect to any environmental impact involved in a major Federal action significantly affecting the quality of the human environment. Under SEQR, agencies may either be an involved agency or an interested agency. An involved agency is one that has jurisdiction by law to fund, approve, or directly undertake an action and will ultimately make a discretionary decision in that regard. An interested agency lacks the jurisdiction to fund, approve, or directly undertake an action but may participate in review of a Draft EIS because of its specific expertise or concern about the Proposed Action. An interested agency has the same ability to participate in the review process as a member of the public. No interested agencies have participated in the review of this Draft EIS. Cooperating agencies are typically invited to participate on an EIS by the EIS lead agency; involved agencies are so by definition.

DOE formally invited NRC, EPA, and NYSDEC to participate on the *Decommissioning and/or Long-Term Stewardship EIS* as cooperating agencies under NEPA. In addition, NYSDEC and NYSDOH are involved agencies under SEQR. The three cooperating agencies were invited by DOE because of both their

jurisdictional roles and the special expertise they would provide to the EIS process. These agencies may ultimately choose to adopt or rely on some or all of the *Decommissioning and/or Long-Term Stewardship EIS* analyses in fulfillment of their own environmental analysis requirements under NEPA or SEQR regulations, as applicable.

***U.S. Nuclear Regulatory Commission*—**NRC has regulatory responsibility under the Atomic Energy Act for WNYNSC, with the exception of the SDA, and this responsibility is exercised through the NRC license issued to NYSERDA pursuant to 10 CFR Part 50. The technical specifications and certain other portions of the NRC license were put into abeyance pending completion of WVDP.

The WVDP Act specifies certain responsibilities for NRC, including: (1) prescribing requirements for decontamination and decommissioning, and (2) providing review, consultation, and monitoring to DOE on WVDP for the purpose of assuring public health and safety. Because of these mandated responsibilities, NRC was invited to be a cooperating agency under NEPA on this EIS. During NRC's independent environmental review to fulfill its own NEPA responsibilities, NRC may choose to adopt all or part of this EIS to assist in its determination that the Preferred Alternative meets NRC's decommissioning criteria.

In addition, DOE has committed to provide a Decommissioning Plan to the NRC in accordance with the DOE/NRC Memorandum of Understanding. The Decommissioning Plan will be based upon the Preferred Alternative identified in the *Decommissioning and/or Long-Term Stewardship EIS*, and is expected to be prepared and delivered to the NRC for review at approximately the same time as the Draft EIS is released for public review. The Decommissioning Plan will provide the basis for NRC's determination as to whether the Preferred Alternative meets the decommissioning criteria that the NRC has identified for WVDP. If appropriate, DOE will also provide the Waste Determination to NRC on its classification of incidental wastes.

NRC retains regulatory responsibility for non-DOE activities in the non-Project and non-SDA areas to the extent that contamination exists both on- and off site resulting from activities performed when the facility was operating under its NRC 10 CFR Part 50 license.

Following completion of WVDP and reinstatement of the license, NRC will have regulatory responsibility for authorizing modification to, or termination of, the license, should NYSERDA seek it.

***New York State Department of Environmental Conservation*—**With respect to DOE Proposed Actions, NYSDEC participates as a cooperating agency on this EIS. As a cooperating agency, NYSDEC will review this EIS and other documents developed by DOE and NYSERDA to provide early input on the analysis of environmental impacts associated with the alternatives analyzed. NYSDEC is also an involved agency under SEQR with respect to Part 380 permitting actions at the SDA and with respect to any approvals NYSDEC would issue for WVDP or WNYNSC sites under Part 373/RCRA.

NYSDEC regulates the SDA through issuance of permits under 6 NYCRR Part 380, "Rules and Regulations for Prevention and Control of Environmental Pollution by Radioactive Materials." NYSDEC also regulates hazardous and mixed low-level radioactive waste at WNYNSC pursuant to 6 NYCRR Part 370 Series. This includes permitting activities under Interim Status for RCRA-regulated units.

***New York State Department of Health*—**NYSDOH is an involved agency as defined by SEQR because it has jurisdiction over the commercial and industrial use of radioactive materials in New York State, including the possession of radioactive materials at the SDA at WNYNSC. It now maintains authority over the radioactive materials license (originally issued by the New York State Department of Labor) that authorizes NYSERDA to possess and manage emplaced radioactive waste at the SDA.

***U.S. Environmental Protection Agency*—**EPA is participating as a cooperating agency under NEPA and will review this EIS and other documents developed by DOE in conjunction with NYSERDA to provide input on the analyses of environmental impacts associated with the decommissioning alternatives to be evaluated. The EPA will also assess compliance with National Emission Standards for Hazardous Air Pollutants (NESHAPs) requirements in 40 CFR Part 61, Subpart H; assess the ability of the alternatives to meet the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) risk range; and consider sole-source aquifer concerns.

In addition, both EPA and NYSDEC are responsible for ensuring compliance with the 1992 joint NYSDEC/U.S. EPA 3008 (h) (New York State Environmental Conservation Law, Article 27, Titles 9 and 13) Order issued to DOE and NYSERDA. The Order required investigation of SWMUs, performance of interim corrective measures, and completion of CMSs, if necessary.

Regulatory Compliance Processes

This EIS meets the Federal procedural requirements set forth under NEPA, 1969 (as promulgated in 40 CFR Part 1500 et seq.) as well as New York State SEQR requirements (6 NYCRR Part 617). Both the Federal and State regulations require the identification and evaluation of significant environmental impacts resulting from a Proposed Action and a discussion of mitigative actions. SEQR requires the mitigation of significant environmental impacts to the extent practicable. The requirements of both NEPA and SEQR call for a comprehensive assessment of reasonable alternatives and the presentation of comparative information to facilitate agency decisionmaking. Both NEPA and SEQR have public involvement requirements to make the information available to public officials and citizens before decisions are made and actions taken.

The EIS recognizes there are regulatory requirements and processes associated with the implementation of each alternative. These regulatory requirements may consist of RCRA permitting and corrective actions under New York State and/or EPA requirements, decommissioning according to NRC requirements, assessments relative to the CERCLA risk range, and assessment of compliance with EPA NESHAPs. This EIS is not intended to replace any of the regulatory compliance actions that may be undertaken as applicable by DOE and NYSERDA in decommissioning and closing of WVDP or WNYNSC.

NYSDEC and/or EPA regulates DOE and NYSERDA compliance with RCRA requirements for management of hazardous waste at WVDP and at WNYNSC, as applicable. Details for addressing applicable Part 373/RCRA and the 1992 RCRA 3008(h) Consent Order requirements for interim status units, final status units, and SWMUs will be developed in closure plans, implementation plans, a permit application, CMSs, or a combination thereof by DOE and NYSERDA. Approval of such documents or issuance of a permit will be determined by NYSDEC and/or EPA.

The New York State RCRA Part 373 Permit Applications will require a supporting EIS that meets the requirements of SEQR. While this *Decommissioning and/or Long-Term Stewardship EIS* analyzes portions of WNYNSC in addition to those within the scope of the RCRA Part 373 Permit Application (e.g., the SDA), the appropriate sections of this EIS can be used by NYSDEC to understand the environmental impacts of actions being considered in the RCRA Part 373 Permit Application.

NRC has prescribed decommissioning criteria for WVDP under the WVDP Act. NRC, in a Final Policy Statement (67 FR 5003), prescribed its License Termination Rule as the decommissioning goal for WVDP and all NRC-licensed portions of the site. An assessment of compliance will be made when NRC reviews the Decommissioning Plans prepared for the Preferred Alternative identified by the lead agencies.

The NRC Decommissioning Plan review processes and the RCRA compliance processes focus on the actions selected by DOE and NYSERDA following completion of the NEPA and SEQR processes. If the outcome of

the RCRA Part 373 Permit Application review process or Decommissioning Plan review process results in the need for actions that are substantially different from those analyzed in the EIS, the agencies would conduct a Supplement Analysis to determine if this *Decommissioning and/or Long-Term Stewardship EIS* needs to be supplemented and the ROD or Findings amended.

EPA has authority over radioactive emissions under Clean Air Act NESHAP (40 CFR Part 61) regulations at WNYNSC.

Preliminary information with respect to compliance with the decommissioning requirements noted previously is presented in Appendix L of this EIS.

1.4 Scope of the Environmental Impact Statement

This EIS consists of analysis of environmental impacts associated with the full range of reasonable alternatives for decommissioning and/or long-term stewardship of WNYNSC, as well as the No Action alternative as required by NEPA and SEQR. This EIS also analyzes the environmental impacts along the transportation route(s) for wastes that are proposed to be transported to offsite locations. The long-term impacts (post-decommissioning phase) at or near the West Valley Site for facilities or wastes that are proposed to remain in place, depending on the alternative, are also analyzed.

For further definition of the scope of the EIS, see Chapter 2, Tables 2–1 and 2–2, which describe the status of facilities at WNYNSC at the start of decommissioning.

This EIS also addresses topics called for in SEQR implementing regulations (6 NYCRR Part 617-9), including mitigating measures, adverse environmental impacts that cannot be avoided, any growth-inducing aspects of the Proposed Action[1], and the impact of the Proposed Action on solid waste management. These topics were added to this EIS so it would provide information required by SEQR and could be used to support NYSERDA decisions about management of non-WVDP portions of WNYNSC.

1.5 Decisions to be Supported by the Environmental Impact Statement

This EIS will support decisions about actions to complete WVDP and to either close or manage WNYNSC. Major decisions would consist of decommissioning of the former spent nuclear fuel reprocessing facility, storage buildings, and the NDA; exhumation or management of the SDA; and remediation and/or management of areas of contaminated soil, sediment and groundwater.

The EIS may be used by cooperating agencies. Specifically, the NRC may adopt this EIS if NRC determines that the Preferred Alternative would meet its decommissioning criteria. EPA will review the EIS and other documents to determine if the remediated site would satisfy the requirements of the 1992 RCRA 3008(h) Consent Order. Additionally, the EPA will assess if the remediated site would be consistent with the CERCLA risk range and therefore avoid the potential need to list the site on the National Priorities List. NYSDEC may rely on the environmental analyses in this EIS for purposes of SEQR to support the Part 373 Permit Application, RCRA CMS, and closure of the SDA under 6 NYCRR 380, et al., as appropriate.

[1] *SEQR specifies that the assessment of environmental impacts focuses on the growth-inducing aspects of a Proposed Action. These are generally "secondary" impacts of a Proposed Action that trigger further development. For example, actions that add substantial new land use, new residents, or new employment could induce additional development of a similar kind or support uses such as stores or other businesses.*

1.6 Relationship of this Environmental Impact Statement to Other National Environmental Policy Act Documents

This section explains the relationship between the *Decommissioning and/or Long-Term Stewardship EIS* and other relevant NEPA documents.

1.6.1 *Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center (Cleanup and Closure Draft EIS)* (DOE/EIS-0226-D)

The *Cleanup and Closure Draft EIS* (DOE 1996a) was issued for public comment in March 1996, and a substantial number of comment letters were received by DOE. A sequence of events, described in Section 1.2, followed, which led to the decision to revise and reissue the 1996 *Cleanup and Closure Draft EIS* using the information gained since 1996, the improved analytical methods developed since that time, and the clearer understanding of regulatory requirements. To distinguish between the 1996 *Cleanup and Closure Draft EIS* and this revised Draft EIS, the revised Draft EIS is referred to as the *Decommissioning and/or Long-Term Stewardship EIS*, consistent with its revised title. Responses to the summarized comments in the 113 comment letters are provided in Appendix A to this EIS.

1.6.2 *Final Environmental Impact Statement, Long-Term Management of Liquid High-Level Radioactive Wastes Stored at the Western New York Nuclear Service Center, West Valley* (DOE/EIS-0081)

This EIS (DOE 1982) evaluated alternatives for long-term management of liquid high-level radioactive waste stored in underground tanks. A DOE ROD was issued to construct and operate facilities at WNYNSC to solidify the liquid high-level radioactive waste into a form suitable for transportation and disposal in a Federal geologic repository. A Supplement Analysis, completed in 1993, evaluated the impacts of modifications in the design, process, and operations since the 1982 EIS ROD. A second Supplement Analysis, completed in 1998, addressed high-level radioactive waste solidification, management, and interim storage of wastes, disposal of wastes, transport of wastes, site operations, facility decontamination, and spent nuclear fuel storage. Actions evaluated by the 1982 EIS and its Supplement Analyses consist of Main Plant Process Building head-end cell decontamination, construction of a Load-In/Load-Out Facility to support shipment of vitrified high-level radioactive waste, construction of a Remote-Handled Waste Facility, decontamination of the fuel receiving and storage area, and draining the water from the fuel storage pool.

The near-term onsite management of the vitrified high-level radioactive waste canisters, currently stored in the Main Plant Process Building, and the disposition of the Remote-Handled Waste Facility and Load-In/Load-Out Facility, are the subjects of the *Decommissioning and/or Long-Term Stewardship EIS*.

1.6.3 *Final West Valley Demonstration Project Waste Management Environmental Impact Statement (Waste Management EIS)* (DOE/EIS-0337)

In the *Waste Management EIS* (DOE 2003e) issued in December 2003, DOE considered alternatives for the management of WVDP low-level radioactive waste, mixed (radioactive and hazardous) low-level radioactive waste, transuranic waste, and high-level radioactive waste, currently in storage at the site or that will be generated at the site over the next 10 years from ongoing operations and decontamination activities. In the ROD, issued June 16, 2005 (70 FR 35073), DOE decided to ship low-level radioactive waste and mixed low-level radioactive waste off site for disposal at commercial sites; one or both of two DOE sites (Nevada Test Site near Mercury, Nevada, or the Hanford Site near Richland, Washington); or a combination of commercial

and DOE sites.[2] Also, consistent with the *Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste* ROD (64 FR 46661, August 26, 1999), DOE will store canisters of vitrified high-level radioactive waste at the WVDP Site until transfer to a geologic repository. DOE deferred a decision on the disposal of WVDP transuranic waste, pending a determination by DOE that the waste meets all statutory and regulatory requirements for disposal at the Waste Isolation Pilot Plant (WIPP) in New Mexico.

1.6.4 *Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (Yucca Mountain EIS)* (DOE/EIS-0250-F)

The EIS (DOE 2002b) was issued in February 2002. It analyzed a Proposed Action to construct, operate and monitor, and eventually close a geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain in Nye County, Nevada. As part of the Proposed Action, the EIS analyzed the potential impacts of transporting spent nuclear fuel and high-level radioactive waste to the Yucca Mountain site from 77 sites across the United States, including West Valley. Because this EIS includes consideration of the shipment of the high-level waste canisters from West Valley, that analysis is summarized and incorporated by reference in this *Decommissioning and/or Long-Term Stewardship EIS.* On April 8, 2004, DOE issued a ROD (69 FR 18557) to announce its decision on the mode of waste transport and selection of the rail corridor for transportation of waste to the proposed Yucca Mountain repository.

In October 2007, DOE announced the availability of two supplements to the *Yucca Mountain EIS.* The first is a *Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* (DOE/EIS-0250F-S1D), which evaluates the Proposed Action to construct, operate, monitor and eventually close a geologic repository at Yucca Mountain, and the No Action Alternative which would terminate activities at Yucca Mountain. The second is the *Final Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor (Final Rail Corridor SEIS)* (DOE/EIS-0250F-S2) which analyzes the potential environmental impacts of constructing and operating a railroad to connect the Yucca Mountain repository to an existing rail line near Wabuska, Nevada (the Mina corridor). This second supplement is linked with the *Final Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada* (DOE/EIS-0369) issued on July 11, 2008, discussed in Section 1.6.5.

1.6.5 *Final Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada (Draft Rail Alignment EIS)* (DOE/EIS-0369)

In October 2007, DOE announced the availability of the *Draft Rail Alignment EIS* (DOE/EIS-0369D). This Draft EIS analyzes the potential environmental impacts associated with potential rail alignments within the Caliente and Mina corridors, and analyzes constructing and operating a railroad in Nevada to transport spent nuclear fuel, high-level radioactive waste, and other Yucca Mountain project materials to a repository at Yucca Mountain. It tiers from the broader corridor analysis in both the *Yucca Mountain EIS* and the *Draft Rail Corridor SEIS* mentioned earlier.

[2] *In accordance with the settlement agreement between DOE and the State of Washington of January 6, 2006, regarding the case Washington v. Bodman, DOE will not ship low-level radioactive waste and mixed low-level radioactive waste from WVDP to Hanford until DOE has satisfied the requirements of the settlement agreement.*

1.6.6 *Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste* (DOE/EIS-0200-F)

In May 1997, DOE issued this EIS (DOE 1997a), which examined the potential environmental and cost impacts of strategic management alternatives for managing low-level radioactive waste, mixed low-level radioactive waste, transuranic waste, high-level radioactive waste, and nonwastewater hazardous wastes resulting from nuclear defense and research activities at sites around the United States.

DOE published four RODs from this EIS. In its ROD for the treatment and management of transuranic waste, published in the *Federal Register* on January 23, 1998 (63 FR 3629), DOE decided (with one exception)[3] that each DOE site, including West Valley, would prepare its transuranic waste for disposal and store the waste on site until it could be shipped to WIPP in Carlsbad, New Mexico, for disposal.

In the second ROD, published in the *Federal Register* on August 5, 1998 (63 FR 41810), DOE decided to continue using offsite facilities for the treatment of major portions of the nonwastewater hazardous waste generated at DOE sites. This decision did not involve any transfers of nonwastewater hazardous waste between DOE sites.

In the third ROD, published in the *Federal Register* on August 16, 1999 (64 FR 46661), DOE decided to store immobilized high-level radioactive waste in a final form at the site of generation (Hanford Site, Idaho National Laboratory, Savannah River Site, and the WVDP) until transfer to a geologic repository for ultimate disposition.

In a fourth ROD, published in the *Federal Register* on February 25, 2000 (65 FR 10061), DOE addressed the management and disposal of low-level radioactive waste and mixed low-level radioactive waste. In this ROD, DOE decided to perform minimal treatment of low-level radioactive waste at all sites and continue, to the extent practicable, disposal of onsite low-level radioactive waste at Idaho National Laboratory, Los Alamos National Laboratory, Oak Ridge Reservation, and Savannah River Site. DOE identified the Hanford Site in Washington and the Nevada Test Site as regional disposal sites for low-level and mixed low-level waste from other DOE sites that do not have appropriate disposal capability, including WVDP. This decision regarding DOE sites does not preclude the use of commercial disposal sites.

1.6.7 *Waste Isolation Pilot Plant Disposal Phase Final Supplemental Environmental Impact Statement* (DOE/EIS-0026-S-2)

In October 1980, DOE issued the *Final Environmental Impact Statement, Waste Isolation Pilot Plant* on the proposed development of WIPP (DOE 1980). In January 1981, the subsequent ROD, established a phased development of WIPP, beginning with construction of the WIPP facility. DOE issued the *Final Supplemental Environmental Impact Statement, Waste Isolation Pilot Plant* in January 1990 that considered previously unavailable information. Based on the *Supplemental EIS*, DOE decided to continue phased development of WIPP by implementing test-phase activities. On October 30, 1992, the WIPP Land Withdrawal Act transferred the WIPP Site from the U.S. Department of Interior to DOE. The 1997 Defense Authorization Act (September 23, 1996) amended the WIPP Land Withdrawal Act to make RCRA hazardous waste land disposal prohibitions inapplicable to WIPP. The *Waste Isolation Pilot Plant Disposal Phase Final Supplemental Environmental Impact Statement* (DOE/EIS-0026-S-2), issued in September 1997, updated information contained in the 1980 and 1990 EISs, and incorporated the analysis of various treatment alternatives for transuranic waste. In a ROD issued in January 1998 (63 FR 3264), DOE decided to open WIPP for the disposal of defense transuranic waste.

[3] *Sandia National Laboratories in New Mexico would ship its transuranic waste to the Los Alamos National Laboratory in New Mexico to prepare this waste for shipment to WIPP.*

1.6.8 *Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada (NTS EIS)* (DOE/EIS-0243)

This Final EIS (DOE 1996b) analyzed the potential impacts that could result from mission activities at the Nevada Test Site, including low-level radioactive waste and mixed low-level radioactive waste disposal. The *NTS EIS* analyzed waste management and environmental restoration activities and other mission activities for a 10-year period, including receipt of low-level radioactive waste and mixed low-level radioactive waste from other sites such as WVDP.

1.6.9 *Draft Tank Closure and Waste Management Environmental Impact Statement for the Hanford Site, Richland, Washington* (DOE/EIS-0391)

DOE issued an NOI (71 FR 5655) on February 2, 2006, to prepare this EIS to analyze and evaluate the potential health and environmental impacts of storing, retrieving, treating, and disposing of the waste inventory generated during defense production years at the Hanford Site in Washington State. This EIS will evaluate the potential health and environmental impacts of ongoing solid waste management operations at Hanford, as well as the proposed disposal of Hanford low-level radioactive waste and mixed low-level radioactive waste and a limited volume of low-level radioactive waste and mixed low-level radioactive waste from other DOE sites, such as the WVDP, in a new Integrated Disposal Facility to be located at Hanford.[4] The defense waste inventory of about 207 million liters (54.5 million gallons) of mixed radioactive and chemically hazardous waste, stored in 177 large and 61 smaller underground storage tanks, presents a major source of potential public health and environmental risks. In addition, this EIS will evaluate the potential health and environmental impacts of proposed activities to decommission the Fast Flux Test Facility and auxiliary facilities at Hanford, including managing waste generated by the decommissioning process and disposing of Hanford's inventory of bulk radioactive sodium from the Fast Flux Test Facility and other onsite facilities.

1.6.10 *Environmental Impact Statement for the Disposal of Greater-Than-Class-C Low-Level Radioactive Waste* (DOE/EIS-0375)

On July 23, 2007, DOE issued a Notice of Intent (72 FR 40135) to prepare an EIS to evaluate disposal alternatives for the disposal of Greater-Than-Class C low-level radioactive waste and similar DOE waste, which may not have an identified path to disposal. The wastes volumes being analyzed in this EIS include estimates of the amount of Greater-Than-Class C and potential non-defense transuranic waste that may be generated from decommissioning activities at WNYNSC, as well as transuranic waste currently in storage at West Valley. Currently, there is no location for the disposal of Greater-Than-Class C low-level radioactive waste, and the Federal Government is responsible for such disposal under the Low-Level Radioactive Waste Policy Amendments Act (Public Law 99-240). DOE is evaluating several disposal methods in the Greater-Than-Class C EIS, including geologic repositories, intermediate depth boreholes, and enhanced near-surface facilities at different locations. A Draft EIS is currently scheduled for issuance in 2009.

1.6.11 *Environmental Assessment for the Decontamination, Demolition, and Removal of Certain Facilities at the West Valley Demonstration Project, Final* (DOE/EA-1552)

This Environmental Assessment was issued in September 2006. As part of ongoing WVDP responsibilities and in accordance with the WVDP Act (Public Law 96-368, October 1, 1980), DOE proposed to demolish and remove 36 facilities. Although some of the facilities are currently in use, DOE would be able to eliminate or significantly reduce the functions that are undertaken in those facilities. Once the functions are replaced or no

[4] *In accordance with the settlement agreement between DOE and the State of Washington of January 6, 2006, regarding the case Washington v. Bodman, DOE will not ship low-level and mixed low-level radioactive waste from WVDP to Hanford until DOE has satisfied the requirements of the settlement agreement.*

longer needed by WVDP, DOE would demolish and remove the facilities from the site. All applicable RCRA and corollary NYSDEC Quality Services regulations for management (storage, shipping, reporting, and offsite disposal) of solid waste, including hazardous waste, would be followed in completing the work.

1.7 Public Participation

1.7.1 Public Participation Process

During the preparation of an EIS, opportunities for public involvement are provided as stipulated by NEPA and SEQR (see **Figure 1–2**). The steps followed under either set of regulations are similar. In Figure 1–2 the NEPA process steps are indicated, and, where the SEQR process steps are different or have different names, they are indicated parenthetically. As a preliminary step in development of an EIS, regulations established by the Council on Environmental Quality (40 CFR 1501.7) and DOE require "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a Proposed Action." As part of the scoping process (40 CFR 1501.7[a]), the Council on Environmental Quality requires the agency preparing an EIS to:

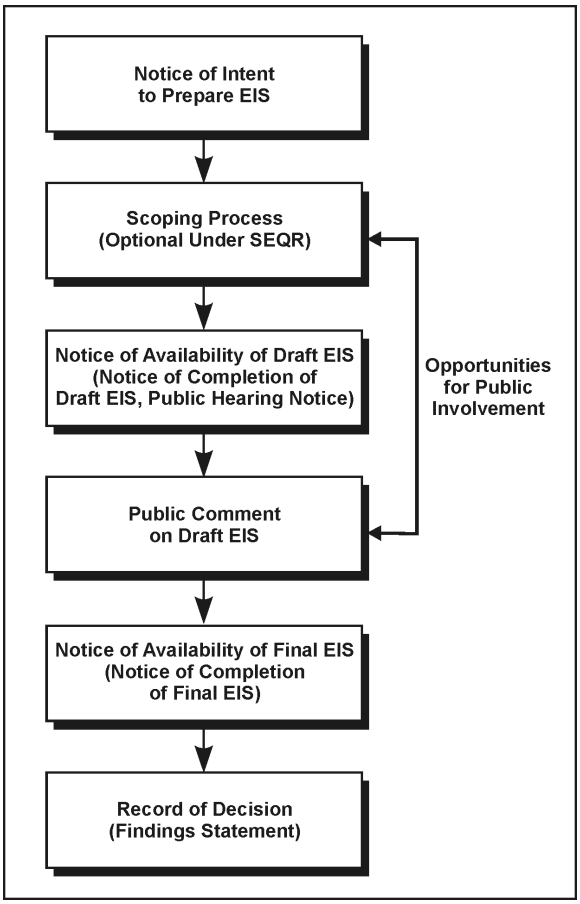

Figure 1–2 National Environmental Policy Act Process

- Invite the participation of affected Federal, state, and local agencies, American Indian Tribes, and other interested persons in scoping the EIS;
- Determine the scope and significant issues to be analyzed in the EIS;
- Identify and eliminate from detailed study the issues that are not significant or have been covered under other environmental reviews;
- Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement;
- Indicate any other NEPA documents that are being or will be prepared that are related to the EIS but not part of the scope;
- Identify other environmental review and consultation requirements so that other necessary analyses and studies can be prepared concurrently and integrated with the EIS; and
- Indicate the relationship between the timing of the preparation of environmental analyses and the agencies' tentative planning and decisionmaking schedule.

As indicated in Figure 1–2, scoping is not required under SEQR, but may be initiated by the lead agency (6 NYCRR Part 617.8). If scoping is conducted, it must include an opportunity for public participation.

In addition to the scoping process, public participation is solicited in the review of a Draft EIS. NEPA and SEQR require that comments on a Draft EIS be assessed and considered during the preparation of a Final EIS, and a response to the comments provided.

1.7.2 Issues Raised During the Public Comment Period on the Draft 1996 EIS

The 1996 *Cleanup and Closure Draft EIS* was distributed in March 1996 to interested individuals and organizations, including appropriate state clearinghouses, regulatory agencies, and American Indian Tribes. During the 6-month public comment period, four information sessions were held during which DOE and NYSERDA were available to explain and discuss topics and issues that pertained to the Draft EIS. Two of the four sessions were held on Reservations of the Seneca Nation of Indians. A formal public hearing was conducted in three meetings on August 6, 1996, in West Valley, New York, to receive oral comments. During the 6-month comment period, DOE received 113 letters from individuals and organizations. A wide spectrum of issues was raised during the public comment period. Many of the comments related to the definition and analysis of the alternatives (the scope of the EIS), but some dealt with issues such as responsibility, determining regulatory compliance, and funding for operation of the West Valley Site, which are outside the scope of an EIS.

All of the documents received during the public comment period on the *Cleanup and Closure Draft EIS*, as well as the transcripts from the formal hearings, were reviewed; and specific comments were delineated and organized into 13 major categories:

1. Characterization of the site, waste, and contamination or presentation of data
2. Reasonableness of alternatives
3. Design or operational details
4. Near-term impacts analysis
5. Long-term erosion analysis
6. Long-term hydrologic transport analysis
7. Erosion control strategies
8. Long-term performance assessment
9. Preferences for or against a particular alternative
10. Specific recommendations for the Preferred Alternative
11. Regulatory compliance
12. Understanding the purpose and content of the EIS and its relationship to decisionmaking
13. Out of scope comments

Appendix A contains a table that cross-references each comment letter or transcript to the applicable category to assist the commentor in understanding how the lead agencies responded to the comment. For each category, examples or summaries of the comments received are provided and then a response is provided to that category of comments. For the out of scope comments, an explanation is provided as to why they were placed in that category.

1.7.3 Issues Raised During the 2003 Scoping Process (i.e., oral and written comments)

A 45-day comment period was initiated by the March 13, 2003, DOE Notice in the *Federal Register* (68 FR 12044) and NYSERDA Notice in the Environmental Notice Bulletin (NYSERDA 2003) of their intent to prepare a *Decommissioning and/or Long-Term Stewardship EIS*. DOE and NYSERDA held two public scoping meetings (April 9 and 10) in Ashford, New York, to solicit comments on the scope and content of the EIS. Transcripts of the two scoping meetings captured oral comments and issues raised by four commentors. DOE also received 10 sets of written comments on a variety of EIS-related issues, submitted several ways: by using the "Comment Form" provided by DOE at the public scoping meetings, by letter through the U.S. Postal Service, by electronic mail (email), or handed in during the April 9 and 10 meetings.

Overview of Comments

Several comments were made in the scoping meetings and comment letters that related to recommendations for the scope of the revised Draft EIS. These were:

- The scope of alternatives should be for the portion of the site controlled by DOE rather than the entire WNYNSC Center.
- The Final EIS should show the individual comments made on the revised Draft, as well as comments made on the 1996 *Cleanup and Closure Draft EIS*, and should respond to these comments individually.
- The revised Draft EIS should evaluate the Exhume and On-site Storage Alternative, which was evaluated in the 1996 *Cleanup and Closure Draft EIS*.
- The impact assessment should use probabilistic risk assessment methods.
- The erosion modeling should account for specific processes including slumping, stream capture, and gully formation. In addition, the model should be calibrated against measured changes in valley cross-section.
- The dose projections should account for populations that are reasonably expected to be exposed.
- The analysis of impacts should consider occupational exposure and the effect of activity timing on occupational exposure.
- The Final EIS should show the relationship of this EIS to other West Valley EISs.
- Requirements of the WVDP Act (Public Law 96-368) and the regulatory standards that would apply to decommissioning should be outlined.

Response: All of these comments were considered in the development of the revised Draft EIS. The scope of the alternatives continued to consider the entire site consistent with the NOI. The decision was made to address the comments received on the 1996 Draft EIS in a summary manner in this Draft EIS, due to the amount of time that has passed and the numerous changes that have occurred at the site since 1996. As discussed in Section 1.7.2, the comments on the 1996 Draft EIS were organized into categories. For each category, the summarized issue(s) and the response(s) appear in Appendix A to this Draft EIS. The revised Draft EIS considered, but did not analyze, the Exhume and On-site Storage Alternative because it was inconsistent with the purpose and need. The revised Draft EIS utilizes updated long-term performance assessment models for groundwater and erosion as described in Appendices E, F, and G. The dose

projections address the populations that are reasonably expected to be impacted by site releases. The analysis of impacts does consider occupational exposure, but does not directly investigate the effect of decommissioning timing on occupational exposure. The history of the development of this EIS, including its relationship to other West Valley EISs, is discussed in Section 1.2. The requirements of the WVDP Act and the regulatory standards that apply to decommissioning of WNYNSC are discussed in Section 1.3.

Other portions of the discussion at the meetings and the letters involved issues related to the EIS but not directly related to recommendations for the scope of the revised Draft EIS. These out of scope issues included:

- Terms of the stipulation of compromise between DOE and the Coalition on West Valley Nuclear Wastes and Radioactive Waste Campaign
- Preference for, or dislike of, specific actions or alternatives
- Process and criteria for agency decisionmaking
- Future NRC actions, some of which might be supported by the DOE/NYSERDA EIS
- Relationship between DOE and NYSERDA
- Objection to the process for classifying waste incidental to reprocessing

1.7.4 Public Participation for the 2008 Revised Draft EIS

DOE and NYSERDA are soliciting comments on the Revised Draft EIS during a 6-month public comment period. During the public comment period, DOE and NYSERDA will jointly hold public meetings to provide interested members of the public with opportunities to learn more about the content of the Revised Draft EIS from exhibits, fact sheets, and other materials; hear DOE and NYSERDA representatives present the results of the EIS analyses; ask clarifying questions; and provide oral or written comments. A Revised Draft EIS website (www.westvalleyeis.com) has been established to further inform the public about the Revised Draft EIS, how to submit comments, public meetings, and other pertinent information. Additional comment submission mechanisms, public meeting dates, times, and locations will be announced in the *Federal Register*, in local newspapers, and on the Website (www.westvalleyeis.com). Members of the public who have expressed interest and are on the DOE and NYSERDA mailing list for the Draft EIS will be notified by U.S. mail regarding meeting dates, times, and locations.

When the Final EIS is published, its availability will be announced in the *Federal Register*, in local newspapers, and via U.S. mail. All oral and written comments received during the public comment period will be considered in preparing the Final EIS, and DOE and NYSERDA responses will be presented in a Comment Response Document that will be published as part of the Final EIS.

Based on the Final EIS and other considerations, DOE will announce a decision regarding future actions at the West Valley Site in a ROD to be published in the *Federal Register* at least 30 days after the Final EIS is published. NYSERDA will publish a Findings Statement with similar information regarding its decisions in New York State's *Environmental Notice Bulletin*.

1.8 Organization of the Environmental Impact Statement

This Draft EIS includes a separate Summary in addition to the main volume that consists of a foreword, 11 chapters and 18 appendices, as follows:

A Summary and Guide for Stakeholders which provides a summary of the results of the environmental analysis in the Draft EIS and provides a guide to locating specific information in the Draft EIS.

Contents of the Draft EIS:

Foreword (prepared by NYSERDA), which describes NYSERDA's views on the Draft EIS analyses, in terms of their decisionmaking responsibilities.

Chapter 1, Introduction and Purpose and Need for Agency Action: This chapter provides an overview of the activities at the WNYNSC, a brief history of events leading to the development of the document, the purpose and need for agency action, the scope and decisions to be supported by the EIS, the relationship of this EIS to other NEPA documentation, and the issues raised during the public participation process.

Chapter 2, Proposed Action, Facility Description, Alternatives, and Comparison of Environmental Impacts: This chapter provides a summary description of the project; a description of WNYNSC facilities and their expected status at the start of the implementation period; descriptions of the alternatives evaluated and alternatives dismissed from detailed evaluation, and a summary comparison of the environmental impacts of the four alternatives.

Chapter 3, Affected Environment: This chapter describes the existing environmental conditions at WNYNSC and surrounding areas.

Chapter 4, Environmental Consequences: This chapter describes the potential environmental impacts to WNYNSC and surrounding areas that could occur as the result of each of the reasonable alternatives during the implementation period, including long-term performance results, cumulative impacts, cost-benefit considerations, incomplete and unavailable information, and resource commitments.

Chapter 5, Applicable Laws, Regulations, and Other Requirements: This chapter describes environmental, safety and health laws, regulations, and standards applicable to the proposed decommissioning and or long-term stewardship of WNYNSC.

Chapter 6, Potential Mitigation Measures: This chapter summarizes the mitigation measures that would be used to avoid or reduce potential environmental impacts that may result from implementation of the alternatives analyzed in Chapter 4.

Chapters 7 through 11: Chapters 7 through 11 contain a list of references, glossary, index, list of EIS preparers, and distribution list of agencies, organizations, and persons to whom copies of the *Decommissioning and/or Long-Term Stewardship EIS* were sent.

The EIS contains 18 appendices that provide technical information in support of the environmental analyses presented in the main body of the document:

Appendix A – Summary of Comments Received on the 1996 Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center

Appendix B – *Federal Register* Notices

Appendix C – Descriptions of Facilities/Areas, Implementation Activities, and Description of New Construction

Appendix D – Overview of Performance Assessment Approach

Appendix E – Geohydrological Analysis

Appendix F – Erosion Studies

Appendix G – Models for Long-Term Performance Assessment

Appendix H – Long-Term Performance Assessment Results

Appendix I – Decommissioning Radiological and Hazardous Chemical Human Health Impacts Evaluation

Appendix J – Evaluation of Human Health Effects from Transportation

Appendix K – Method for Estimating Nonradiological Air Quality Impacts

Appendix L – Regulatory Compliance Discussion

Appendix M – Floodplain and Wetlands Assessment

Appendix N – Intentional Destructive Acts

Appendix O – Consultation Letters

Appendix P – The SDA Quantitative Risk Assessment (prepared by NYSERDA)

Appendix Q – Concurrence Letters

Appendix R – Contractor Disclosure Statements